

*Uphaus v. Wyman, Supra; Barenblatt v. U.S., Supra; Braden v. U.S.*, 365 U.S. 431, 5 L. ed. 2d 653, 81 S. Ct. 584 (1961). The Attorney General had information that DeGregory was previously the head of the Communist movement in New Hampshire [R. 14 - Exhibit I p.9]. He was also a paid functionary of the Communist Party, its secretary-treasurer, and an organizer [R. 22-25]. This was held a proper nexus upon which to question DeGregory, in that he had information of past activity which would be relevant to the present investigation. *Wyman v. DeGregory*, 103 N.H., 214, 169 A 2d 1, aff'd 368 U.S. 19, 7 L. ed. 2d 86, 82 S. Ct. 137 (1961). The use of the term "relevancy" as used in a legislative fact-finding investigation is broader than in the trial of a case; it encompasses inquiry, the answer to which would be reasonably concerned with the main issues under investigation. *Sinclair v. U.S.*, 279 U.S. 263, 299, 73 L. ed. 692, 49 S. Ct. 268 (1929). This bears out the recent concept that "History provides the illuminating context within which the implications of present conduct may be known". *Communist Party of the United States v. Subversive Activities Control Board*, 367 U.S. 1, 68 6 L. ed. 2d 625, 81 S. Ct. 1357 (1961). Certainly the information available to DeGregory as secretary-treasurer, and organizer and leader in New Hampshire, as to Party members and sympathizers, plans of attack and infiltration would be invaluable to the State of New Hampshire in order to protect itself from aggression. This is particularly so since the mode of attack and aims of the Communist Party have not changed appreciably over the past years, and in light of the limited knowledge of such activity and membership lists by the average party member. Thus there is sufficient cause for the New Hampshire Supreme Court to have found a sufficient nexus between the topic under investigation and the witness, DeGregory, to allow his questioning by the Attorney General, and to compel him to answer the same [R. 14-21].

The only other requirement imposed on the State prior to questioning a witness is that he be apprised of the subject under investigation and the connective reasoning whereby the precise questions relate to it; however, if indisputably clear they need not be stated for the record. *Barenblatt v. U.S.*, 360 U.S. 109, 124, 3 L. ed. 2d 1115, 79 S. Ct. 1081 (1959); *Watkins v. U.S.*, 354 U.S. 178, 214, 215, 1 L. ed. 2d 1273, 77 S. Ct. 1173 (1957). In the case at bar it was clear the witness was aware that the topic under investigation was subversive activity and subversives in and affecting the State of New Hampshire, and the specific questions related to his past activity in the communist movement; in fact his long experience with similar investigations would preclude him from raising such issue.

Thus the decision of the New Hampshire Supreme Court, *Attorney General v. DeGregory*, 106 N.H. 262 (1965), should be affirmed, since there is ample evidence in the record that the vital and legitimate interests of the state have not been pressed into fatal collision with the Appellant's constitutionally protected rights.

# **I. THE NEW HAMPSHIRE SUPREME COURT EMPLOYED THE PROPER LEGAL TESTS IN UPHOLDING THE CONSTITUTIONALITY OF THE ATTORNEY GENERAL'S ACTION AS A LEGISLATIVE INVESTIGATING COMMITTEE.**

Where, as in the instant case, the issue is not the constitutionality of a specific statute, but is the constitutionality of the application of said statute, the first point of inquiry is, Did the courts employ the appropriate legal tests?

The New Hampshire Supreme Court has experienced more than a cursory involvement in the legal problems relating to legislative investigation of subversive activities. *Nelson v. Wyman*, 99 N.H. 33, 105 A. 2d. 756 (1954);

*Kahn v. Wyman* 100 N.H. 245, 123 A.2d. 166 (1956); *Wyman v. Uphaus*, 100 N.H. 436, 130 A.2d. 278 (1957); *Wyman v. Sweezy*, 100 N.H. 103, 121 A.2d. 783 (1956); *Wyman v. Uphaus*, 101 N.H. 139, 136 A.2d 221 (1957); *Wyman v. DeGregory*, 101 N.H. 171, 137 A.2d 512 (1957); *Wyman v. Uphaus*, 102 N.H. 461, 159 A.2d. 160 (1960); *Wyman v. DeGregory*, 103 N.H. 214, 169 A.2d. 1 (1961); *Attorney General v. DeGregory*, 106 N.H. 262, 209 A.2d 712 (1965).

The United States Supreme Court has on two separate occasions advised the New Hampshire Supreme Court as to the tests to be employed in evaluating the constitutionality of the Attorney General's action as a legislative investigating committee. *Sweezy v. Wyman*, 354 U.S. 234, 1 L.ed. 2d 1311, 77 S.Ct. 1203 (1957); *Uphaus v. Wyman*, 355 U.S. 16, 2. L. ed. 2d 22, 78 S.Ct. 57 (1957).

It is abundantly clear that the New Hampshire Supreme Court has previously employed the appropriate tests in determining the constitutionality of the Attorney General's action as a legislative investigating committee. *Uphaus v. Wyman*, 360 U.S. 72, 3 L.ed. 2d 1090, 79 S. Ct. 1040 (1959); *DeGregory v. Attorney General*, 368 U.S. 19, 7 L.ed. 2d 86, S.Ct. 137 (1961) [both decisions upheld state action]

There can be no doubt that in the present case the New Hampshire Supreme Court applied to the facts the appropriate legal tests as they have done in the past. The Court has examined the nature of the subject under inquiry, the relationship of Appellant thereto, the presence of both in and affecting the State of New Hampshire, the purpose for such investigation, and all other factors pertinent to said case. The Court thereupon weighed all the evidence, its final analysis being that the action of the Attorney General was constitutional.

*Attorney General v. DeGregory*, 106 N.H. 262, 266, 209 A.2d. 712, [Dec'd April 30, 1965]:

"This exercise by the state of its power adequately to inform itself in order to act and protect its legitimate and vital interests has not been 'pressed, in this instance, to a point where it has come into fatal collision with the overriding constitutionally protected rights' of the defendant. *Uphaus v. Wyman*, 360 U.S. 72, 81."

## II. THE DETERMINATION OF THE NEW HAMPSHIRE GENERAL COURT AUTHORIZING A CONTINUOUS REVIEW OF SUBVERSIVE ACTIVITIES IN AND AFFECTING THE STATE OF NEW HAMPSHIRE BY THE ATTORNEY GENERAL ACTING AS A LEGISLATIVE INVESTIGATING COMMITTEE WAS A LEGITIMATE EXERCISE OF GOVERNMENTAL POWER.

Self-preservation is a basic function of government in our democratic form of society. *Wyman v. DeGregory*, 103 N.H. 214, 169 A. 2d 1, aff'd 368 U.S. 19, 7 L. ed. 2d 86, 82 S. Ct. 137 (1961); *Uphaus v. Wyman*, 360 U.S. 72, 80, 3 L. ed. 2d 1090, 79 S. Ct. 1040 (1959); *Dennis v. U.S.*, 341 U.S. 494, 501, 505-6, 95 L. ed. 1137, 71 S. Ct. 857 (1951); *Gitlow v. New York*, 268 U.S. 652, 668, 69 L. ed. 1138, 45 S. Ct. 625 (1925). The State of New Hampshire, as a matter of right, is empowered to defend itself from subversion pursuant to N.H. RSA 588 as amended. *Wyman v. DeGregory*, 103 N.H. 214, 169 A. 2d 1, aff'd 368 U.S. 19, 7 L. ed. 2d 86, 82 S. Ct. 137 (1961); *Wyman v. Uphaus*, 360 U.S. 72, 80, 3 L. ed. 2d 1090, 79 S. Ct. 1040 (1959). Communism is a definite and distinct threat to the security of the state and thus a legitimate area for legislative inquiry. *Nelson v. Wyman*, 99 N. H. 33, 50, 105 A. 2d 756 (1954); *Gibson v. Florida Legislative Investigation Committee*, 372 U.S. 539, 547, 9 L. ed. 2d 929, 83 S.Ct. 889 (1963). Fact-finding investigation by a state legislature of a legitimate sub-



ject (Communism) in furtherance of a necessary government function is proper and necessary to form a basis of knowledge and fact whereby the Legislature can serve its function of review, repeal, amendment and enactment of legislation. *Kilbourn v. Thompson*, 103 U.S. 168, 26 L. ed. 377, (1881); *McGrain v. Daugherty*, 273 U.S. 135, 153, 71 L. Ed. 580, 47 S. Ct. 319 (1927); *Sinclair v. U.S.*, 279 U.S. 263, 73 L. Ed. 692, 49 S. Ct. 268 (1929); *Jurney v. MacCracken*, 294 U.S. 125, 79 L. Ed. 802, 55 S. Ct. 375 (1935).

The question of whether or not to be informed as to the existence of subversion and communism as it affects the security of the State of New Hampshire is a matter of legislative and not judicial determination. *Wyman v. DeGregory*, 103 N.H. 214, 217, 169 A. 2d 1, aff'd, 368 U. S. 19, 7 L. Ed. 2d 86, 82 S. Ct. 137 (1961); *Wyman v. Uphaus*, 101 N.H. 139, 136 A. 2d 221 (1957), aff'd, 360 U.S. 72, 3 L. Ed. 2d 1090, 79 S. Ct. 1040 (1959). There can be no doubt that the legislature still wishes to be informed on these subjects.

*Wyman v. Uphaus*, 101 N.H. 139, 140, 136 A. 2d 221 (1957.)

"The legislative history [of New Hampshire Laws 1955, Chapter 197] makes it clear beyond a reasonable doubt that it did and does desire an answer to these questions."

The status of the Attorney General acting as a legislative investigating committee, with certain time limitations, was changed by the legislature to that of a continuously operative body. N.H. Laws 1957, Chapter 178, p. 213.

On Wednesday, July 10, 1957, the General Court of New Hampshire under suspension of the Rules adopted by more than a two-thirds vote (275-24 in the House; 16-6

in the Senate) a Resolution to the effect that the General Court authorized the questions put and wanted and continues to want the information which is sought.

*N. H. Laws 1957, Chapter 347, p. 538:*

**"JOINT RESOLUTION RELATIVE TO INTERPRETATION OF LEGISLATIVE INTENT ON SUBVERSIVE ACTIVITIES.**

*Whereas*, the attorney general has for several years been conducting a fact-finding investigation of subversive activities in New Hampshire for the general court pursuant to law, and

*Whereas*, by the laws of this state the attorney general for these purposes has been found by the Supreme Court of New Hampshire to be a constitutionally delegated legislative committee of this body, and

*Whereas*, in the course of the aforesaid investigation one Paul M. Sweezy refused to respond to questions of the attorney general which questions and report thereof was made by the attorney general to this legislature on January 5, 1955, and

*Whereas*, in decreeing the questions put to Sweezy were put without authority, the United States Supreme Court on June 17, 1957, stated that.

'The lack of any indication that the Legislature wanted the information the attorney general attempted to elicit from petitioner must be treated as the absence of authority.'

Now therefore be it

*Resolved by the Senate and House of Representatives in General Court convened:*

THAT this general court is, and for a long time has been, familiar with the questions put to Paul M. Sweezy by the attorney general acting in this state, authorized these questions, wanted and continues to want the information which is sought by these questions, and has enacted this resolution for the specific purpose of removing the doubt which has been expressed by the United States Supreme Court ' . . . neither we nor the State Courts have any assurance that the questions petitioner refused to answer fall into a category of matters upon which the Legislature wanted to be informed when it initiated this inquiry.' [Approved July 11, 1957.]"

Thereafter the legislature continually has evidenced a desire to be informed by the Attorney General of subversive activity in and affecting New Hampshire. N.H. Laws, 1961, Ch. 224:1, p. 33, Ch. 225:1, p. 402; N.H. Laws 1963, Ch. 198:1, p. 201, Ch. 199:1, p. 298; N.H. Laws 1965, Ch. 239, p. 300, Ch. 282 p. 470.

**III. THE FOUNDATIONS PREREQUISITE TO THE INSTITUTION OF INVESTIGATION INTO SUBVERSIVE ACTIVITY AND THE INTERROGATION OF APPELLANT HAVE BEEN LAID BY THE ATTORNEY GENERAL WITH RESPECT TO THE SUBJECT MATTER UNDER INVESTIGATION AND APPELLANT'S RELATION THERETO.**

The provisions of N.H. RSA 588:8-a (supp) require that in order to question Appellant the Attorney General must establish (1) that he has information which he deems reasonable or reliable relating to violations of the provisions

of RSA 588 and (2) that he has reasonable cause to believe that the Appellant has evidence pertinent to the subject under investigation.

With reference to point "(1)" above it is not necessary for the Attorney General to investigate only "violations" of RSA 588 but he is also permitted to determine whether subversive persons are located within the state. This interpretation was placed upon RSA 588:8-a (supp) by the New Hampshire Supreme Court in *Wyman v. DeGregory*, 103 N.H. 214, 216, 217, 169 A. 2d 1, aff'd 368 U.S. 19, 7 L. ed. 2d 86, 82 S. Ct. 137 (1961):

"It is the defendant's contention that the present statute no longer permits the Attorney General 'to determine whether subversive persons . . . are presently located within the state' since that language which appeared in the previous legislation (Laws 1953, c. 307 and Laws 1955, cc. 197 and 340) does not appear in these words in RSA 588:8-a (supp) as enacted in 1957. It is argued that the Attorney General is now confined to investigating only 'violations' of RSA ch. 588 and therefore there is no basis for investigating subversive persons or for the investigation of the defendant.

We think it is clear from the history of the legislation in this field in this state that that was not the intent of the Legislature and that it was not what the Legislature said. RSA 588:8-a (supp). This statute does not require that there must be a violation of law before the legislative investigation can be set in motion. It only requires that there be reasonable and reliable information 'relating' to violations of the provisions of RSA ch. 588. The statute specifically provides that the results of the investigation shall be reported to the

Legislature together with the Attorney General's 'recommendations, if any, for legislation.' This clearly indicates that the Legislature has demanded a report as to whether further legislation in the field of subversive activities is required. \* \* \* Our decision in *Uphaus v. Wyman* 102 N.H. 517, 518, did not say that legislation was limited to investigations of violations of law."

Thus the Attorney General in order to trigger his investigation must have reasonable or reliable information as to any of the following: (a) violations of the provisions of RSA N.H. Chapt. 588; (b) the presence of said subversives and subversive sympathizers who have taken some active part as members or by participation in an alleged subversive organization.

Once the investigation has been triggered it is incumbent upon the Attorney General, in order to question a witness, to have reasonable cause to believe that a nexus or relationship exists between the subject under investigation and the witness upon which to base his inquiry. *Uphaus v. Wyman*, 360 U.S. 72, 78-80; 3 L. ed. 2d 1090, 79 S. Ct. 1040 (1959).

The Attorney General relied upon the inherent nature of the Communist movement and The Report Of The Attorney General to the New Hampshire General Court, January 5, 1955 [R. 14 Exhibit I] as the basis to question DeGregory. Substantially the same basis was deemed proper in a prior investigation in which DeGregory was a witness. *Wyman v. DeGregory*, 103 N.H. 214, 169 A 2d 1, aff'd 368 U.S. 19, 7 L. ed. 2d 86, 82 S. Ct. 137 (1961). The only change in circumstances from the prior DeGregory case and the present proceeding is the passage of time, about three years, and a blanket denial by DeGregory of knowledge of any pertinent facts relating to subversive

activities during the past six and one-half years. [R. 15.]. The latter point has been treated elsewhere in this brief. The Merrimack County Superior Court [R. 14] determined as a matter of fact that the Attorney General had reasonable and reliable information to permit him to proceed with the investigation and the questioning of Appellant. The fact that the Superior [Trial] Court did not abuse its discretion in this decision was upheld. *Attorney General v. DeGregory*, 106 N.H. 262, 209 A. 2d 712 (April 1965).

*Attorney General v. DeGregory supra*, p. 264:

"We hold that given the nature of the Communist movement and its mode of operation the above report could constitute information which the Attorney General could deem reasonable or reliable relating to violations of RSA ch. 588 and the proper basis for his present investigation of subversive activities on behalf of the Legislature".

Further discussion will show that the passage of time did not alter the fact that the Attorney General had laid the proper foundations to investigate subversion and to question Appellant, with particular reference to the following areas:

- [A.] The Communist Party.
- [B.] Appellant's relationship or nexus to the Communist Party.
- [C.] The Communist Party in and affecting the State of New Hampshire.

#### [A.] THE COMMUNIST PARTY.

The courts, in view of the goals and existence of world Communism, have consistently refused to view the Com-



munist Party as an ordinary political party. *Barenblatt v. U.S.*, 360 U.S. 109, 128, 3 L. Ed. 2d 1115, 79 S. Ct. 1081 (1959); *Gibson v. Florida Legislative Committee*, 372 U.S. 539, 547, 9 L. ed. 2d 929, 83 S. Ct. 889 (1963). The Communist movement has played a dominant role in world affairs since World War II. It has been of major concern to the Congress in all areas of legislation, especially with reference to Foreign Affairs, Military, Internal Security, Education and Budgetary.

*Barenblatt v. U. S. supra* at pp. 128, 129:

"To suggest that because the Communist Party may also sponsor peaceable political reforms the constitutional issues before us should now be judged as if that Party were just an ordinary political party from the standpoint of national security, is to ask this Court to blind itself to world affairs which have determined the whole course of our national policy since the close of World War II, affairs to which Judge Learned Hand gave vivid expression in his opinion in *United States v. Dennis* (CA 2 NY) 183 F. 2d 201, 213, and to the vast burdens which these conditions have entailed for the entire Nation."

It is no secret that the tenets of the Communist Party have been and are the overthrow by force, violence or by any other means our democratic form of government here in the United States and elsewhere in the world.

*Barenblatt v. U.S., supra* p. 128:

"Justification for its exercise in turn rests on the long and widely accepted view that the tenets of the Communist Party include the ultimate overthrow of the Government of the United States by force and violence, a view which has been given formal expression by Congress."

Also note Subversive Activities Control Act of 1950; Title I of the Internal Security Act of 1950, §2, 64 Stat 987-989; *Carlson v. Landon*, 342 U.S. 524, 535, Note 21, 96 L. Ed. 547, 557, 72 S. Ct. 525 (1952).

As late as 1963 the courts have reiterated the view that the Communist Party, due to its mode of operation, its present effect on our way of life, and its tenets is classified as a permissive area of investigation. *Gibson v. Florida Legislative Committee*, 372 U.S. 539, 547, 9 L. ed. 2d 929, 83 S. Ct. 889 (1963).

It was certainly reasonable for the Attorney General to conclude that the Communist movement has not abated, nor its tenets changed from the time of the first DeGregory hearing to the present one. A contrary conclusion would require the Attorney General to blind himself to prior case law and the course of history which is displayed in every newspaper, on every radio and television newscast, with reference to Communist activity and goals.

**[B.] APPELANT'S RELATIONSHIP OR NEXUS TO THE COMMUNIST PARTY.**

The Report of The Attorney General to the New Hampshire General Court, January 5, 1955, pp. 204-206 [R. 22-26] indicates that Appellant was a member of the Communist Party, an officer of the Party, and a paid functionary of the Party. Such data was held to be a valid nexus between the subject under investigation and DeGregory to compel his answer to a question propounded by the Attorney General. *Wyman v. DeGregory* 103 N.H. 214, 169 A. 2d 1, aff'd 368 U.S. 19, 7 L. Ed. 2d 86, 82 S. Ct. 137 (1961). The factor of the passage of time, and DeGregory's denial of any knowledge of pertinent facts which relate to this investigation, has been discussed elsewhere in this brief.

The concept of "nexus" has been brought up to date by the case of *Gibson v. Florida Legislative Committee*, 372 U.S. 539, 9 L. ed. 2d 929, 83 S. Ct. 889 (1963). Nexus is the relationship of the witness to the subject under investigation and the purpose for said investigation. The concept of nexus is developed by a case by case analysis. The Courts have balanced the interest of the state on one side and that of the witness' constitutional rights on the other. The Courts, as has been stated elsewhere in this brief, have given great weight to investigations of Communist activity for the purpose of protection of the state's security. In all such cases where the subject matter of the investigation is Communism or subversion the critical point in the Court's decision is the nexus of the witness to the subject matter. The greater the nexus and closer the relationship of the witness to the subject matter under investigation, in Communist investigation cases, the greater the possibility that the State's interests do not come into fatal conflict with the witness's constitutional rights. As the relationship or nexus diminished the more probable it was that the witness had his constitutional rights violated.

During an investigation of the Communists, the following was held to be a sufficient nexus whereby Appellant could be questioned: sworn testimony indicating he was a Communist; he was working as a propaganda expert for them; he checked into town as a member of a group known to be Communistic. *Wilkinson v. U.S.* 365 U.S. 399, 5 L. ed. 2d 633, 81 S. Ct. 1024 (1961).

Another set of facts relating to a Communist investigation provided a valid nexus for Appellant's questioning: sworn testimony pinpointed him as a Communist organizer; a prior conviction for sedition in Kentucky. *Braden v. U.S.* 365 U.S. 431, 5 L. ed. 2d 653, 81 S. Ct. 584 (1961).

The subject of Communist infiltration into the NAACP in Florida was the purpose of interrogating Mr. Gibson,

its President. There was no evidence that either he or a majority of the membership were communists. It would also appear that the release of such membership lists would do irreparable harm to the members and the organization which heretofore performed worthwhile activities in this Southern State. *Gibson v. Florida Legislative Committee*, 372 U.S. 539, 9 L. ed. 2d 929, 83 S. Ct. 889 (1963). For the aforesaid reasons the interests of the State were said to come into fatal collision with the constitutional rights of appellant.

During an investigation of the witness the following nexus was established with reference to the Communist Party: two prior witnesses under oath identified the witness as a Communist; that he had recruited them into the party; that he donated money to the party; in response to these statements the witness denied he was a Communist but admitted he was sympathetic to its activities and causes from 1942-47. The position of the witness was upheld not for lack of a sufficient nexus, but because the government had failed to advise the witness of the pertinency of the questioning when he raised that issue. *Watkins v. U.S.*, 354 U.S. 178, 1 L. ed. 2d 1273, 77 S. Ct. 1173 (1957).

During an investigation of the presence of subversive persons as defined in N.H. RSA Chapt. 588 Appellant was called as a witness. He was a member of the Progressive Party, an author and a lecturer at the University of New Hampshire, he denied he was a Communist; he referred to himself as a "self-styled Marxist". The contentions of the witness were upheld on the grounds that the legislative intent to be informed was indefinite as to information sought from the witness. Also of concern was the remoteness of the Progressive movement and the witness' connection thereto as they relate to the topic under investigation (subversion). The nexus problem though not the major concern of the court, absent the intent issue, would prob-

ably have been held insufficient when coupled with an investigation in the field of education and of an organization of doubtful communist affiliation. *Sweezy v. Wyman*, 354 U.S. 234, 1 L. ed. 2d 1311, 77 S. Ct. 1203 (1957).

During an investigation of Communism under N.H. RSA Chapt. 588, the Attorney General attempted to elicit from the witness who then was the executive director of World Fellowship the following information: (a) guest lists of such organizations; (b) who were its employees; (c) who were its speakers. There was found a valid nexus to investigate the witness in that there were invited nineteen known Communists to speak at the Fellowship meetings; he had visited Russia with and at the request of known Communists; and other information as presented in Report of the Attorney General to the New Hampshire General Court, January 5, 1955. [R. 14 Exhibit I pp. 162-175]; *Uphaus v. Wyman*, 360 U.S. 72, 3 L. ed. 2d 1090, 79 S. Ct. 1040 (1959).

Again during an investigation of Communism, the following was held to be a sufficient nexus whereby appellant could be questioned: statements under oath that the witness was an active member of a communist group while a graduate student at the University of Michigan (1947-50). *Barenblatt v. U.S.*, 360 U.S. 109, 3 L. ed. 2d 1115, 79 S. Ct. 2d 1081 (1957).

During the first investigation when DeGregory was summonsed as a witness the following facts were held as a proper nexus for his examination: he was a paid functionary of the Communist Party; an officer, its secretary-treasurer; he ran meetings in New Hampshire; all other facts as presented in Report of The Attorney General to the New Hampshire General Court, January 5, 1955 [R. 22-25]. *DeGregory v. Attorney General*, 368 U.S. 19, 7 L. ed. 2d 86, 82 S. Ct. 137 (1961).

The facts which form the nexus between the subject under investigation and DeGregory in the instant case are exactly the same as those in *Wyman v. DeGregory*, *supra* [R. 22-25]. As in the other cases discussed above the witness was under oath named as a Communist, he was active in the movement and had information vital to the investigation. The time at which his relation to the Communist movement was established with reference to the present investigation was not so far removed as to destroy the nexus between the witness and the subject under investigation. This point was developed in the cases previously discussed. As to the relevancy of the questions this point is covered elsewhere in the brief.

**[C.] THE COMMUNIST PARTY IN AND AFFECTING THE STATE OF NEW HAMPSHIRE.**

The Report of The Attorney General to the New Hampshire General Court, January 5, 1955 [R. 14] outlines with substantial accuracy the following areas with reference to the Communist Party in and affecting the State of New Hampshire:

- (a) The mode of operation of the Communist Party in general,
- (b) The mode of operation of the Communist Party in specific reference to the State of New Hampshire,
- (c) Communists and Communist sympathizers active in the New Hampshire area,
- (d) Spheres of Communist influence and infiltration in and affecting New Hampshire.

The organizational unit of the Communist Party operating in New Hampshire, Vermont, Maine, Rhode Island and Massachusetts was known as District I. The central



headquarters of District I was Boston, Massachusetts. [R. 14]. [Exhibit I p. 47] The former head of the so-called New Hampshire Division was Elba Chase Nelson, who was succeeded in office by the Appellant, Hugo DeGregory. [R. 14] [Exhibit I p. 9] The active hard core party membership in New Hampshire fluctuated from fifty to one-hundred, with many more being sympathetic to the cause. [R. 14] [Exhibit I p. 9]. Various sub-divisions or cells were active in the New Hampshire cities of Nashua, Concord, Claremont, Newport, Washington and Manchester. The sub-division or cell method was abolished and meetings were held in small groups of three to five members to avoid any one member having unlimited access to and knowledge of communist activity and membership [R. 14]. [Exhibit I p. 47]

The Communist sphere of influence has attempted to attract members and sympathizers from every walk of life. Various Communist front organizations are established wherein the party's work is carried on and its policies and ideas disseminated [See R. 14 - Exhibit I p. 23 for discussion as to Communist Front Organizations]. Aside from infiltration into crucial industrial and government positions, particular interest has been shown in the areas of religion, labor and education. It has long been the established Communist Party line to oppose religious action and thought at all times. However, this position has been delicately approached in order to cater to potential members and sympathizers who otherwise might balk at assisting the Party. Once the person has been won over to the Communism program the anti-religious program begins. Relentless pressure on religious activity in Communist countries throughout the world is an initial line of attack by the Communist Party. Priests and missionaries have been ejected from the country and imprisoned if they did not conform to the Communist doctrines. [Note R. 14 - Exhibit I pp 41-43] A cursory reading of the Report of the At-

torney General to the New Hampshire General Court, January 5, 1955 [R. 14] will indicate that the approach to religion in District I was somewhat similar to the one above. World Fellowship Inc., though not church affiliated, gave to the public an aura of religious affiliation, and was denied the backing of the New Hampshire State Council of Churches. Many religious leaders were present at the Conference, and participated in its program. Also of note is the information relative to Reverend Warren Henry McKenna [R. 14] [Exhibit I pp. 221-226].

Said Exhibit I [R. 14] [Exhibit I pp. 124-129] develops the approach used by the Communist Party with reference to labor unions and labor's activities. It is a key objective of the Communist Party to gain a foothold with trade unions and labor groups. Attempts were made to infiltrate various unions, and some headway was made in certain areas. The areas where headway was made were the Granite Cutters Union Granite Cutters International Association, A.F. of L, C.I.O., IWO, International Fur and Leather Workers Union, International Labor Defense, Finnish Workers Federation. [R. 14, Exhibit I p. 53]. In Vermont there was a Granite Workers strike which was exploited by the Communist Party. [R. 14, Exhibit I p. 51]. It should be noted that these probes have been rejected by the labor unions in New Hampshire; however, there is no evidence that Communist Party has dropped this mode of attack.

Another area of infiltration by the Communist Party is the field of education. The investigation of the Attorney General, Exhibit I [R. 14] [Exhibit I pp. 62-123] has shown that an attack or probe has been made in the field of education. Various professors, lecturers and speakers have been cultivated to spread the Communist line, political groups advocating the Communist position have been established on the campuses of U.N.H. and Dartmouth.

Another area of infiltration is the PTA [R. 14 - Exhibit I pp. 188-189] Even though there has been little known activity recently in this area there is no evidence to show that the educational community is no longer a sphere of Communist attack.

The Report of the Attorney General to the New Hampshire General Court, January 5, 1955 develops the concept of the so-called Communist Front Organization. [R. 14 Exhibit I pp. 23-28] The "front organization" is the chief vehicle for the dissemination of the Communist Party line; they also act as pressure groups to set up contacts in key areas of this country's social, political, educational and economic life. These organizations are the front line of attack for the Communist Party. The persons attending World Fellowship were in the main associated with various Communist "front" organizations [R. 14 Exhibit I pp. 130-175]; Professor Daggett of the University of New Hampshire had been associated with various "Front Organizations" [R. 14 Exhibit I pp. 66-68] as was Paul Sweezy, another lecturer at the University of New Hampshire. The Report of the Attorney General to the New Hampshire General Court, January 5, 1955 [R. p. 4 Exhibit I pp. 176-184] shows that the Progressive Party though not a communist front organization had strong Communist leanings and was a forum for the Communist line. A brief biographical sketch of various New Hampshire residents [R. 14, Exhibit I pp. 190-254] indicates affiliations with the Communist Party and Communist Front Organizations.

It is clear that the facts and the case law, *Barenblatt v. U.S.* 360 U.S. 109, 128, 3 L. ed. 2d 1115, 79 S. Ct. 1081 (1959); *Gibson v. Florida Legislative Committee* 372 U.S. 539, 547, 9 L. ed. 2d 929, 83 S. Ct. 889 (1963), indicate that the Communist Party is not an ordinary political party but is one subject to investigation due to its mode of opera-

tion and ultimate goal of the overthrow of our democratic form of government. The Communist Party is similar to an iceberg, with a great portion being below the surface. It takes great pains in concealing its membership. It places men in key positions to secure information and help carry out the Party's goals. Wherever there is unrest and dissension the Party is certain to be lurking in the shadows. It has been and still is the Communist approach to probe for weak spots in our economic, political, educational and social society and then infiltrate the area to test its strength and gather data for future action.

The targets of Communist aggression are still present today and capable of infiltration. On the military side there are Grenier Field and Pease Air Force Base, the home of Reserve and Regular SAC and Transport Units; the Portsmouth Navy Yard which is a vital cog in our Nuclear Sub-Marine Fleet, and the various army reserve units and installations throughout the state. The University of New Hampshire, Dartmouth, and many other colleges offer fertile grounds for Communist activity of a nature set out in the Report of the Attorney General to the New Hampshire General Court, January 5, 1955. [R. 14 - Exhibit I pp. 62-123] Other vital areas subject to Communist infiltration as evidenced from past and present activity are the PTA, the many active labor groups in New Hampshire, and its electronics industry long active in vital defense work. There are also presently residents of New Hampshire who were many of the individuals discussed in said Report [R. 14 Exhibit I pp. 190-254]. In fact the presence in the state of Appellant, the alleged leader of the Communist movement in New Hampshire [R. 14 Exhibit I p. 9] could give rise to the view that Communist activity still flourishes in New Hampshire.

It is certainly reasonable for the Attorney General, knowing the past goals and mode of operation of the Party as

it affects the world and the State of New Hampshire, the Party's activity in District I, and also knowing that these methods of operation and goals still exist, to infer that since the presence of the targets of Communist aggression now exists in New Hampshire and there are present in the state known Communists, former Communists, and Communist sympathizers that there were Communists and Communist activity in and affecting the security of the State of New Hampshire. It thus follows that the Attorney General had reasonable and reliable information as to violations of N.H. RSA chapt. 588 to trigger his legislative fact-finding investigations.

**IV. THE CASES OF AMERICAN COMMITTEE FOR PROTECTION OF FOREIGN BORN V. SUBVERSIVE ACTIVITIES CONTROL BOARD, AND VETERANS OF THE ABRAHAM LINCOLN BRIGADE V. SUBVERSIVE ACTIVITIES CONTROL BOARD ARE NOT CONTROLLING.**

*Veterans of the Abraham Lincoln Brigade v. Subversive Activities Control Board*, 380 U.S. 513, 14 L. ed. 2d 46, 85 S. Ct. 1153 (1965) and *American Committee for Protection of Foreign Born v. Subversive Activities Control Board*, 380 U.S. 503, 14 L. ed. 2d 39, 85 S. Ct. 1148 (1965) do not deal with legislative fact-finding investigations but relate solely to the field of registration. Neither of the aforementioned cases disputes the proposition espoused in *Gibson v. Florida Legislative Investigation Committee*, 372 U.S. 539, 547, 9 L. ed. 2d 929, 83 S. Ct. 2d 889 (1963); *Barenblatt v. U.S.*, 360 U.S. 109, 128, 3 L. Ed. 1115, 79 S. Ct. 1357 (1959) as to the basic nature of the Communist Party which renders it a proper and permissible subject of constant scrutiny by the Legislature. The above-captioned cases only hold that in order to require registration of or prosecute for the failure to so register

as a "Communist Front Organization" as defined under §7 of the Subversive Activities Control Act, 64 Stat. 987, 993, 50 U.S.C. §786 requires a showing of present Communist involvement.

The registration statute, *supra*, states that if any organization is at present a so-called "Communist Front Organization" that it must register or be subject to certain criminal sanctions. Thus even though previous activity would characterize the above appellants as "Communist Front Organizations", "History provides the illuminating context within which the implications of present conduct may be known" *Communist Party of the United States v. Subversive Activities Control Board*, 367 U.S. 1, 68, 6 L. Ed. 2d 625, 81 S. Ct. 1357 (1961), the lag between such activity and the present was so great (19 to 21 years) coupled with the lack of present involvement, the government was precluded from imposing criminal sanctions. In the legislative fact-finding investigation cases the requisite present involvement relates to the subject under investigation and not the witness' involvement therein. Thus once the initial foundation is laid a nexus between the witness and the subject matter through either his past or present involvement must be shown in order to allow his questioning. Here lies the type of proceeding which calls into play the legal maxim that "History provides the illuminating context within which the implications of present conduct may be known". *Communist Party of the U.S. v. Subversive Activities Control Board*, *supra*.

A witness' failure to answer questions at a legislative fact-finding investigation, where the proper subject and the nexus foundations have been laid, will subject him to the civil sanction of contempt and not to any criminal sanctions. The distinction in the line of cases cited is that where criminal sanctions are imposed a present involvement of the accused is necessary; while where civil sanc-



tions are imposed the subject matter of inquiry must have present involvement yet the witness' relation to same may be of past connection. Thus the staleness claimed by Appellant is neither present nor applicable to the type of case at bar.

**V. THE QUESTIONS PROPOUNDED TO APPELLANT BY THE ATTORNEY GENERAL WERE RELEVANT WITH REFERENCE TO THE SUBJECT UNDER INVESTIGATION NOTWITHSTANDING THE BLANKET DENIAL OF APPELLANT OF ANY KNOWLEDGE OF POSSIBLE PERTINENT FACTS RELATING TO THE PAST SIX AND ONE-HALF YEARS.**

Once all of the foundations have been laid to properly place the witness before the legislative fact-finding committee, the scope of inquiry is limited only by the requirement of relevancy. *Barenblatt v. U.S.*, 360 U.S. 109, 3 L. ed. 2d 1115, 79 S. Ct. 1081 (1959); *U.S. v. Rumely*, 345 U.S. 41, 97 L. Ed. 770, 73 S.Ct. 543 (1953); *McGrain v. Dougherty*, 273 U.S. 135, 71 L. Ed. 580 (1927); In *Re Chapman*, 166 U.S. 661, 41 L.Ed. 1154 (1897); *U.S. v. Orman*, 207 F. 2d 148 (3d cir. 1953); *U.S. v. Josephson*, 165 F. 2d 82 (2d cir. 1947); see 33 B.U. Law Review 337 (1953) Liacos, "Rights of Witnesses Before Congressional Committees". The term "relevant" as here used has broader application than in the trial of a case and encompasses inquiry, the answer to which would be reasonably concerned with the main object of the investigation. *Sinclair v. U.S.*, 279 U.S. 263, 299, 73 L. Ed. 692, 49 S. Ct. 268 (1928); *U.S. v. Ormand*, 207 F. 2d 148, 153 (3d cir. 1953).

During the course of the May 20, 1964 hearing at the Merrimack County Superior Court Appellant refused to answer the following questions:

"Have you ever been a member of the Communist Party?" [R. 14]

"When did you join the Communist Party?" [R. 17]

"Were you a paid member of the Communist Party?" [R. 17]

"Were you an Officer of the Communist Party?" [R. 17.]

"Did you ever have access to or control of membership or financial records of the Communist Party in New Hampshire?" [R. 17]

"Did you attend Communist Party meetings in New Hampshire?" [R. 18]

"To what extent did Communist Party District I in Boston, Massachusetts, have control over the Party's activities in New Hampshire?" [R. 18]

"Did you ever attend any Communist Party meetings in New Hampshire wherein any person advocated to overthrow the—overthrow, destroy or alter the Government of the State of New Hampshire, by force or violence?" [R. 19]

"Did you ever attend any Communist Party meetings in New Hampshire where any person advocated, abetted, advised or taught by any means the commission of an act to constitute a clear and present danger to the security of this state?" [R. 19-20]

"At any such meeting did one or more persons conspire to commit any such act?" [R. 20]

"Did you or any person known to you destroy any books, records or files, or secrete any funds in this state belonging to or owned by the Communist Party?" [R. 21]

"Did you at any time participate or assist in the formation of or contribute to the support of the Communist Party in New Hampshire?" [R. 21]

There can be no dispute that these questions are relevant to the topic under investigation. The purpose for such investigation is the self-preservation and defense of the State against subversion. It is obvious that to establish and implement such defense through future legislation, it will be necessary that the Legislature have available the following facts:

1. Known subversives and subversive sympathizers who have been active in and affecting the State.
2. The organizations infiltrated and the subject of infiltration by the subversive element.
3. The extent of subversive activity in and affecting the state.
4. The general mode of operation of subversive activity, past present and future, in and affecting the State.
5. The specific mode of operation of the subversive operation in the past, present, and future in and affecting the State.
6. The officers of the units of the various subversive cells.
7. The whereabouts of the organization's records.

Appellant contends that his blanket denial of any relevant facts which pertain to the previous six and one-half years [R. 15,] would preclude further questioning of him with reference to such time period. Research has failed to uncover any law which would enable a witness by such action to cut off further questioning. It is axiomatic that

the choice of question is for the inquirer and the issue of relevancy is for the court, neither one is for the witness to determine.

An obvious starting point for the Attorney General's investigation is to determine what subversive activities, what organizations, and what subversives and subversive sympathizers have been active in and affecting the State. Such inquiry is permissive as a knowledge of the past is necessary to lay the cornerstone for future study. *Nelson v. Wyman*, 99 N.H. 33, 39, 105 A. 2d 756 (1954); *Uphaus v. Wyman*, 360 U.S. 72, 78, 3 L. ed. 2d 1090, 79 S. Ct. 1040 (1959).

Appellant would draw the line of relevancy at six and one-half years in the past, the date of the enactment of N.H. RSA 588:8-a. The theory that the statute's enactment date precludes inquiry as to facts which had their genesis prior to said date is not the state of the law. *Nelson v. Wyman*, 99 N.H. 33, 39, 105 A. 2d 756 (1954); *Wyman v. DeGregory*, 103 N.H. 214, 169 A. 2d 1, aff'd 368 U.S. 19, 7 L. ed. 2d. 86, 82 S. Ct. 137 (1961).

That such questions are relevant has best been summed up by the following:

*Communist Party of the United States v. Subversive Activities Control Board*, 367 U.S. 1, 69, 6 L.ed. 2d 625, 81 S. Ct. 1357 (1961).

"Where the current character of an organization and the nature of its connection with others is at issue, of course past conduct is pertinent. Institutions, like other organisms, are predominately what their past has made them. History provides the illuminating context within which the implications of present conduct may be known."

**VI. THE APPELLANT'S CONSTITUTIONAL RIGHTS WERE NOT VIOLATED WITH REFERENCE TO THE ATTORNEY GENERAL'S DUTY TO LAY A FOUNDATION WITH RESPECT TO APPRISING APPELLANT OF THE TOPIC UNDER INQUIRY AND THE CONNECTIVE REASONING WHEREBY THE PRECISE QUESTIONS RELATE TO IT.**

It is "Black Letter Law" that the Appellant should be apprised of the topic under inquiry and the connective reasoning whereby the precise questions relate to it; however, the matter if indisputably clear need not be stated for the record. *Barenblatt v. U.S.*, 360 U.S. 109, 124, 3 L.ed. 2d 1115, 79 S.Ct. 1081 (1959); *Watkins v. U.S.*, 354 U.S. 178 214, 215, 1 L.ed. 2d 1273, 77 S. Ct. 1173 (1957).

Nowhere in the record does Appellant claim he is unaware of the topic under investigation or the reason for his interrogation. In fact at the May 20, 1964 hearing at the Merrimack Superior Court [R. 7-12] Appellant's counsel has reviewed the history of the investigation with reference to DeGregory. There he clearly demonstrated an awareness of the topic under investigation and the connective reasoning whereby the questioning relates to it. The doubt, if any, which may have existed as to the topic under investigation or the purpose of his interrogation was cleared up by Mr. Gall's statements at the Merrimack County Superior Court Hearing, on May 20, 1964 [R. 12-14] There he once again explained that the subject under investigation was Communism in and affecting the State of New Hampshire and that by virtue of DeGregory's prior relationship to the Communist Party as a member, officer, and paid functionary as outlined in Report of the Attorney General To The New Hampshire General Court, January 5, 1955, pp. 204-206 [R. 22-26,] DeGregory's knowledge of the Communist movement would be vital to the investigation. It would be totally unrealistic for Appellant to

dispute the issue that the Attorney General had laid the aforementioned foundation and that he was unaware of the subject matter of the investigation or the purpose of his interrogation in view of his long controversy with the Attorney General, which has been to both the New Hampshire and United States Supreme Courts on numerous occasions, and in view of the record of the instant case.

### CONCLUSION

The state has shown a legitimate and vital need to investigate subversion in and affecting New Hampshire. It has also established a right to question Appellant by virtue of his prior Communist activity. In short, the vital and legitimate interests of the State have not been pushed into fatal collision with the Appellant's constitutionally protected rights.

Thus for the several reasons stated. Appellee respectfully requests the decision of the New Hampshire Supreme Court, *Attorney General v. DeGregory*, 106 N.H. 262 (1965), be affirmed.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

By: William Maynard, Attorney General  
R. Peter Shapiro, Assistant Attorney General  
Joseph F. Gall, Special Assistant

January 14, 1966



## Appendix A

## UNITED STATES CONSTITUTION.

*Amendment 1.*

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

*Amendment 4.*

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

*Amendment 14, Section 1.*

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

## Appendix B

## NEW HAMPSHIRE REVISED STATUTES ANNOTATED.

## CHAPTER 491.

Section 19. PETITION. Whenever any official or board is given the power to summon witnesses and take testimony, but has not the power to punish for contempt, and any witness refuses to obey such summons either as to his appearance or as to the production of things specified in the summons, or refuses to testify or to answer any questions, a petition for an order to compel him to testify or his compliance with the summons may be filed in the Superior Court or with some justice thereof.

Section 20. PROCEDURE. Upon such petition the Court or justice shall have authority to proceed in the matter as though the original proceeding had been in the court and may make orders and impose penalties accordingly.

## Appendix C

## CHAPTER 588.

## SUBVERSIVE ACTIVITIES.

588:1 DEFINITIONS. For the purpose of this chapter "organization" means an organization, corporation, company, partnership, association, trust, foundation, fund, club, society, committee, political party, or any group of persons, whether or not incorporated, permanently or temporarily associated together for joint action or advancement of views on any subject or subjects.

"Subversive organization" means any organization which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or advocate, abet, advise, or teach activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of government of the United States, or of the state of New Hampshire, or of any political subdivision of either of them, by force, or violence.

"Foreign subversive organization" means any organization directed, dominated or controlled directly or indirectly by a foreign government which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or to advocate, abet, advise, or teach, activities intended to overthrow, destroy, or alter, or to assist in the overthrow, destruction or alteration of the constitutional form of government of, the United States, or of the state of New Hampshire, or of any political subdivision of either of them, and to establish in place thereof any form of government the direction and control of which is to be vested in, or exercised by or under, the domination or control of any foreign government, organization, or individual; but does not and shall not be construed to mean an organization the *bona fide* purpose of which is to promote world peace by

alliances of unions with other governments or world federations, unions or governments to be effected through constitutional means.

"Foreign government" means the government of any country or nation other than the government of the United States of America or one of the states thereof.

"Subversive person" means any person who commits, attempts to commit, or aids in the commission, or advocates, abets, advises or teaches, by any means any person to commit, attempt to commit or aid in the commission of any act intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of New Hampshire, or any political subdivision of either of them, by force, or violence, or who is a member of a subversive organization or a foreign subversive organization.

#### SEDITION.

588:2 FELONIES. It shall be a felony for any person knowingly and wilfully to

(a) commit, attempt to commit, or aid in the commission of any act intended to overthrow, destroy, or alter, or to assist in the overthrow, destruction or alteration of the constitutional form of the government of the United States, or of the state of New Hampshire, or any political subdivision of either of them, by force or violence; or

(b) advocate, abet, advise or teach by any means any person to commit, attempt to commit, or assist in the commission of any such act under such circumstances as to constitute a clear and present danger to the security of the United States, or of the state of New Hampshire or of any political subdivision of either of them; or

(c) conspire with one or more persons to commit any such act; or

(d) assist in the formation or participate in the management or to contribute to the support of any subversive organization or foreign subversive organization knowing said organization to be a subversive organization or a foreign subversive organization; or

(e) destroy any books, records or files, or secrete any funds in this state of a subversive organization or a foreign subversive organization, knowing said organization to be such.

Any person who shall be convicted by a court of competent jurisdiction of violating any of the provisions of this section shall be fined not more than twenty thousand dollars, or imprisoned for not more than twenty years, or both, at the discretion of the court.

**588:3 PENALTY.** It shall be a felony for any person after August 1, 1951 to become, or after November 1, 1951 to remain a member of a subversive organization or a foreign subversive organization knowing said organization to be a subversive organization or foreign subversive organization. Any person who shall be convicted by a court of competent jurisdiction of violating this section shall be fined not more than five thousand dollars, or imprisoned for not more than five years, or both, at the discretion of the court.

**588:3-a EVIDENCE OF MEMBERSHIP OR PARTICIPATION.** In determining membership or participation in a subversive organization or a foreign subversive organization as defined in this chapter, or knowledge of the purpose or objective of such organization, the jury, under instructions from the court, may consider evidence, if presented, as to whether the accused person to his knowledge:

- (1) Has been listed as a member in any book or any of the lists, records, correspondence, or any other document of the organization;
- (2) Has made financial contribution to the organization in dues, assessments, loans, or in any other form;
- (3) Has made himself subject to the discipline of the organization in any form whatsoever;
- (4) Has executed orders, plans, or directives of any kind of the organization;
- (5) Has acted as an agent, courier, messenger, correspondent, organizer, or in any other capacity in behalf of the organization;
- (6) Has conferred with officers or other members of the organization in behalf of any plan or enterprise of the organization;
- (7) Has been accepted as an officer or member of the organization or as one to be called upon for services by other officers or members of the organization;
- (8) Has written, spoken or in any other way communicated by signal, semaphore, sign or in any other form of communication orders, directives, or plan of the organization;
- (9) Has prepared documents, pamphlets, leaflets, books or any other type of publication in behalf of the objectives and purposes of the organization;
- (10) Has mailed, shipped, circulated, distributed, delivered, or in any other way sent or delivered to others materials or propaganda of any kind in behalf of the organization;
- (11) Has advised, counseled or in any other way imparted information, suggestions, recommendations to officers or members of the organization or to anyone else in behalf of the objectives of the organization;

- (12) Has indicated by word, action, conduct, writing or in any other way a willingness to carry out in any manner and to any degree the plans, designs, objectives, or purposes of the organization;
- (13) Has in any other way participated in the activities, planning, actions, objectives, or purposes of the organization;
- (14) The enumeration of the above subjects of evidence on membership or participation in a subversive organization or a foreign subversive organization as above defined, shall not limit the inquiry into and consideration of any other subject of evidence on membership and participation as herein stated.

588:3-b CONSTRUCTION OF PROVISION. Nothing in the preceding section shall be construed to limit the supervisory power of the court over the admission and exclusion of evidence or over the sufficiency of the evidence as a whole.

588:4 BARRED FROM OFFICE. Any person who shall be convicted by a court of competent jurisdiction of violating any of the provisions of sections 2 and 3 of this chapter, in addition to all other penalties therein provided, shall from the date of such conviction be barred from:

(a) holding any office, elective or appointive, or any other position of profit or trust in or employment by the government of the state of New Hampshire or of any agency thereof or of any county, municipal corporation or other political subdivision of said state;

(b) filing or standing for election to any public office in the state of New Hampshire.

588:5 DISSOLUTION OF ORGANIZATIONS. It shall be unlawful for any subversive organization or foreign subversive organization to exist or function in the state of New Hampshire and any organization which by a court of com-



petent jurisdiction is found to have violated the provisions of this section shall be dissolved, and if it be a corporation organized and existing under the laws of the state of New Hampshire, a finding by a court of competent jurisdiction that it has violated the provisions of this section shall constitute legal cause for forfeiture of its charter and its charter shall be forfeited, and all funds, books, records and files of every kind and all other property of any organization found to have violated the provisions of this section shall be seized by and for the state of New Hampshire, the funds to be deposited in the state treasury and the books, records, files and other property to be turned over to the attorney general of New Hampshire.

588:6 ASSISTANCE FURNISHED. For the collection of any evidence and information referred to in this chapter, the attorney general is hereby directed to call upon the superintendent of the state police, and county and municipal police authorities of the state to furnish him such assistance as may from time to time be required. Such police authorities are directed to furnish information and assistance as may be from time to time so requested. The attorney general may testify before any grand jury as to matters referred to in this chapter as to which he may have information.

588:7 RECORD. The attorney general shall maintain complete records of all information received by him and all matters handled by him under the requirements of this chapter. Such records as may reflect on the loyalty of any resident of this state shall not be made public nor divulged to any person except with the permission of the attorney general to effectuate the purposes thereof.

588:8 GRAND JURY INQUIRIES. The superior court, when in its discretion it appears appropriate, or when informed by the attorney general that there is information or evidence of the character described in section 2 of this chapter

to be considered by the grand jury, shall charge the grand jury to inquire into violations of this chapter for the purpose of proper action.

588:8-a ATTORNEY GENERAL. At any time when the attorney general has information which he deems reasonable or reliable relating to violations of the provisions of this chapter he shall make full and complete investigation thereof and shall report to the general court the results of this investigation, together with his recommendations, if any, for legislation. In any investigation hereunder the attorney general or any duly authorized member of his staff is authorized to require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers and documents and to administer such oaths, and to take such testimony and to make such expenditures within the funds provided as he deems advisable. The provisions of section 7 of this chapter shall be inapplicable to the investigation provided for herein and the attorney general is hereby authorized to make public such information received by him, testimony given before him, and matters handled by him as he deems fit to effectuate the purposes hereof.

#### LOYALTY

588:9 EMPLOYMENT. No subversive person, as defined in this chapter, shall be eligible for employment in, or appointment to any office, or any position of trust or profit in the government of, or in the administration of the business of this state, or of any county, municipality, or other political subdivision, of this state.

588:10 WRITTEN STATEMENTS REQUIRED. Every person and every board, commission, council, department, court or other agency of the state of New Hampshire, or any political subdivision thereof, who or which appoints or employs or supervises in any manner the appointment or employ-

ment of public officials or employees shall establish by rules regulations or otherwise, procedures designed to ascertain before any person, including teachers, and other employees of any public educational institution in this state, is appointed or employed, that he or she as the case may be, is not a subversive person, and that there are no reasonable grounds to believe such persons are subversive persons. In the event such reasonable grounds exist, he or she as the case may be, shall not be appointed or employed. In securing any facts necessary to ascertain the information herein required, the applicant shall be required to sign a written statement containing answers to such inquiries as may be material, which statement shall contain notice that it is subject to the penalties of perjury.

588:11 EXCEPTIONS. The inquiries prescribed in section 10 other than the written statement to be executed by an applicant for employment, shall not be required as a prerequisite to the employment of any persons in the classification of laborers in any case in which the employing authority shall in his or its discretion determine and by rule or regulation specify the reasons why, the nature of the work to be performed is such that employment of persons as to whom there may be reasonable grounds to believe that they are subversive persons as defined in this chapter will not be dangerous to the health of the citizens or the security of the government of the United States, the state of New Hampshire or any political subdivision thereof.

588:12 PRESENT EMPLOYEES. Every person, who on August 1, 1951 shall be in the employ of the state of New Hampshire or of any political subdivision thereof, other than those now holding elective office shall be required on or before October 1, 1951 to make a written statement which shall contain notice that it is subject to the penalties of perjury, that he or she is not a subversive person as defined in this chapter, namely, any person who commits, at-

tempts to commit, or aids in the commission, or advocates, abets, advises or teaches by any means any person to commit, attempt to commit, or aid in the commission of any act intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of New Hampshire, or any political subdivision of either of them, by force, or violence; or who is a member of a subversive organization or a foreign subversive organization, as more fully defined in this chapter. Such statement shall be prepared and execution required by every person and every board, commission, council, department, court, or other agency of the State of New Hampshire or any political subdivision thereof responsible for the supervision of employees under its jurisdiction. Any such person failing or refusing to execute such a statement or who admits he is a subversive person as defined in this chapter shall immediately be discharged.

**588:13 DISCHARGE OF PERSONNEL; HEARING.** Reasonable grounds on all the evidence to believe that any person is a subversive person, as defined in this chapter shall be cause for discharge from any appointive office or other position of profit or trust in the government of or in the administration of the business of this state, or of any county, municipality or other political subdivision of this state, or any agency thereof. The personnel commission shall, by appropriate rules or regulations, prescribe that persons charged with being subversive persons, as defined in this chapter, shall be accorded notice and opportunity to be heard, in accordance with the procedures prescribed by law for discharges for other reasons. Every person and every board, commission, council, department, or other agency of the state of New Hampshire or any political subdivision thereof having responsibility for the appointment, employment or supervision of public employees not cov-

ered by the state classified service shall establish rules or procedures similar to those required herein for classified services for a hearing for any person charged with being a subversive person, as defined in this chapter after notice and opportunity to be heard. Every employing authority discharging any person pursuant to any provision of this chapter shall promptly report to the attorney general the fact of and the circumstances surrounding such discharge. A person discharged under the provisions of this section shall have the right within thirty days thereafter to appeal to the superior court of the county where such person may reside for a determination by such court (with the aid of a jury if the appellant so elects) as to whether or not the discharge appealed from was justified under the provisions of this act. The court shall speedily hear and determine such appeals, and from the judgment of the court, there shall be a further appeal to the supreme court of New Hampshire as in civil cases.

588:14 DECLARATION OF CANDIDATES. No person shall become a candidate for election to, nor qualify for, any public office under the election laws of this state unless he or she shall file with the declaration of candidacy, or prior to qualifying, an affidavit that he or she is not a subversive person as defined in this chapter. No declaration of candidacy shall be received for filing by any town or city clerk or by the secretary of state unless accompanied by the affidavit aforesaid and there shall not be entered upon any ballot or voting machine at any election the name of the person who has failed or refused to make the affidavits aforesaid.

588:15 FALSE STATEMENTS. Every written statement made pursuant to this chapter by an applicant for appointment or employment, or by any employee shall be deemed to have been made under oath if it contains a declaration preceding the signature of the maker to the effect that it

is made under the penalties of perjury. Any person who makes a material misstatement of fact (a) in any such written statement, or (b) in any affidavit made pursuant to the provisions of this chapter, or (c) under oath in any hearing conducted by any agency of the state, or of any of its political subdivisions, pursuant to this chapter, or (d) in any written statement by an applicant for appointment or employment or by an employee in any state aid institution of learning in this state, intended to determine whether or not such applicant or employee is a subversive person as defined in this chapter, which statement contains notice that it is subject to the penalties of perjury shall be subject to the penalties of perjury prescribed in chapter 587, RSA.

588:16 TITLE. This chapter may be cited as the "Subversive Activities Act of 1951."

## Appendix D

Merrimack,  
No. 4890.

LOUIS C. WYMAN, *Attorney General*

*v.*

HUGO DEGREGORY

Argued December 6, 1960

Decided March 20, 1961.

1. Laws 1957, c. 178, s. 2 directing the Attorney General whenever he has information which he deems reasonable or reliable relating to violations of the provisions of the subversive activities act (RSA ch. 588) to make full and complete investigation thereof and report the results to the General Court with his recommendations for legislation does not require that there must be a violation of the Act before the legislative investigation can be conducted.
2. The fact that previous legislation (Laws 1953, c. 307, and Laws 1955, cc. 197, 340) authorizing the Attorney General to conduct investigation of subversive activities contained the words "to determine whether subversive persons . . . are presently located within the state" and the subsequent enactment (Laws 1957, c. 178, s. 2) did not contain that language does not restrict the powers of the Attorney General under the latter statute to investigations of only violations of the subversive activities act (RSA ch. 588).
3. Where the Attorney General has reasonable and reliable information relating to violations of the subversive activities act (RSA ch. 588) he is authorized by Laws 1957, c. 178, s. 2 to ask the witness, previously granted immunity in accordance with Laws 1959, c. 279, the question whether he is presently a member of the Communist Party, and upon the witness' refusal to answer when so



directed by the Superior Court he may be confined for civil contempt under the provisions of RSA 491:19, 20.

4. Such inquiry is pertinent and is not violative of the First Amendment to the Constitution of the United States; nor does such investigation violate the separation of powers provision of the State Constitution (Pt. I, Art. 37th).

PETITION, by the Attorney General under RSA 491:19, 20 for an order to compel compliance by the defendant with a subpoena served upon him on February 2, 1960 in a legislative investigation of subversive activities conducted by the Attorney General pursuant to Laws 1957, c. 178, s. 2, effective June 14, 1957, which now appears as RSA 588:8-a (supp).

The defendant, both at the investigation conducted by the Attorney General and at the hearing conducted by the Superior Court on June 28, 1960, was requested to answer the question: "Are you presently a member of the Communist Party?" The defendant had previously on February 8, 1960 been granted immunity pursuant to Laws 1959, c. 279. In the present proceeding the defendant has not claimed the privilege against self-incrimination in refusing to answer this question. Upon the defendant's continued refusal to answer the question he was adjudged in contempt by the Superior Court and ordered committed. The Trial Court refused to admit the defendant to bail and this issue was argued before this court on July 14, 1960, and the defendant was ordered released on bail on July 19, 1960, pending the present appeal. *Wyman v. DeGregory*, 102 N. H. 564.

The defendant's exceptions to the Court's order of commitment were reserved and transferred by *Morris, J.*

*Louis C. Wyman*, Attorney General (by brief and orally), *pro se.*

*James C. Cleveland and Howard S. Whiteside* (of Massachusetts) (*Mr. Whiteside orally*), for the defendant.

PER CURIAM. The resolution of the questions in this appeal has been held in abeyance following the oral argument awaiting receipt of certain opinions pending in the Supreme Court of the United States. Two of such opinions recently decided on February 27, 1961 are No. 37 *Wilkinson v. United States* and No. 54 *Braden v. United States*.

The defendant's committal for civil contempt for failure to answer the question "Are you presently a member of the Communist Party?" originates under the provisions of RSA 588:8-a (supp) (Laws 1957, c. 178, s. 2). The pertinent part of that statute reads as follows: "588-8-a. ATTORNEY GENERAL. At any time when the attorney general has *information which he deems reasonable or reliable relating to violations of the provisions of this chapter* he shall make full and complete investigation thereof and shall report to the general court the results of this investigation, together with his recommendations, if any, for legislation. In any investigation hereunder the attorney general or any duly authorized member of his staff is authorized to require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers and documents and to administer such oaths, and to take such testimony and to make such expenditures within the funds provided as he deems advisable. . . ." (Emphasis supplied).

It is the defendant's contention that the present statute no longer permits the Attorney General "to determine whether subversive persons . . . are presently located within this state" since that language which appeared in the previous legislation (Laws 1953, c. 307 and Laws 1955, cc. 197 and 340) does not appear in these words in RSA 588:8-a (supp) as enacted in 1957. [It is argued that the Attorney General is now confined to investigating only "vio-

lations" of RSA ch. 588 and therefore there is no basis for investigating subversive persons or for the investigation of the defendant.

We think it is clear from the history of the legislation in this field in this state that that was not the intent of the Legislature and that it was not what the Legislature said. RSA 588:8-a (supp). This statute does not require that there must be a violation of law before the legislative investigation can be set in motion. It only requires that there be reasonable and reliable information "relating" to violations of the provisions of RSA ch. 588. The statute specifically provides that the results of the investigation shall be reported to the Legislature together with the Attorney General's "recommendations, if any, for legislation." This clearly indicates that the Legislature has demanded a report as to whether further legislation in the field of subversive activities is required.]

The definitions of a "subversive person" and a "subversive organization" in RSA 588:1 as supplemented by specific tests for determining what constitutes participation in a subversive organization by RSA 588:3-a (supp). Laws 1955, c. 181, indicate no purpose to discontinue the legislative investigation. *Wyman v. Uphaus*, 102 N. H. 461, 463. While it is true that the emphasis has been changed from an investigation of the location of subversive persons to those who have taken some active part as members or by participation in an alleged subversive organization (RSA 588:3-a (supp)), the purpose to continue the investigation is not in doubt. *Wyman v. Uphaus*, 102 N. H. 461, 463. See Sixth Report of N. H. Judicial Council, 48, 47 (1956) and particularly recommendation 5. Our decision in *Uphaus v. Wyman*, 102 N. H. 517, 518, did not say that legislation was limited to investigations of violations of law.

[There are those who think that such a legislative investigation may be pointless, dangerous and ineffective (particularly on a state basis) and there are others who think it

desirable and necessary. But the wisdom or lack of wisdom in authorising and financing such an investigation still remains a matter for legislative rather than judicial determination.] *Uphaus v. Wyman*, 81 S. Ct. 153 (1960); No. 54 *Braden v. United States*, and No. 37 *Wilkinson v. United States*, both decided February 27, 1961.

The evidence and the exhibits convinced the Trial Court, as they do this court, that the Attorney General had reasonable and reliable information relating to violations of RSA ch. 588, which provided a valid and relevant basis for the investigation of the defendant. The question that he was asked "Are you presently a member of the Communist Party?" is a pertinent one (*Barenblatt v. United States*, 360 U. S. 109, 125); there is no doubt that the defendant and his counsel understood it and that, in spite of divided opinions, it does not violate First Amendment rights. No. 54 *Braden v. United States*, No. 37 *Wilkinson v. United States*, *supra*.

The contention that such investigation violates the separation of powers of our Constitution (Const. Ft. I, Art. 37th) has already been decided adversely to the defendant in *Wyman v. Uphaus*, 102 N. H. 461. See *Nelson v. Wyman*, 99 N. H. 33. The proposition that the Superior Court had no authority under RSA 491:19, 20 to find the defendant in civil contempt because the legislative committee is not an "official or board" within the meaning of that statute is without merit. *State v. Matthews*, 37 N. H. 450, 453. See *Wyman v. Uphaus*, 102 N. H. 461.

Under the majority opinions of the Supreme Court of the United States and under the decisions of this court we can find no constitutional infirmity in the order of civil contempt issued by the Trial Court.

*Exceptions overruled.*

WHEELER, J., did not sit; DUNCAN, J., dissented.

DUNCAN, J. *dissenting*: The proceedings now before the court are distinct from those considered in *Wyman v. DeGregory*, 100 N. H. 163 and 101 N. H. 171, having been instituted under a more recent statute. Laws 1957 c. 178, s. 2. See *Wyman v. DeGregory*, 102 N. H. 564. Ostensibly the 1957 statute was enacted to provide the Attorney General with some semblance of permanent authority, in place of the temporary investigatory powers conferred upon him as a legislative committee by earlier acts and resolutions. Laws 1953, c. 307; Laws 1955, cc. 197, 340. The bald fact is that in revising the statute the Legislature struck out the earlier direction "to determine whether subversive persons . . . are presently located within this state" (Laws 1953, c. 307, *supra*) upon which the validity of the prior investigation depended under the decision. See *Nelson v. Wyman*, 99 N. H. 33, 38, 39; *Wyman v. Sweezy* 100 N. H. 103, 110, 113; *Wyman v. Uphaus*, 100 N. H. 436, 441, 450; *Sweezy v. New Hampshire*, 354 U. S. 234, 236, 246; *Uphaus v. Wyman*, 360 U. S. 72; *Uphaus v. Wyman*, 81 S. Ct. 153, 154, 158 (1960).

The Attorney General is now charged solely with the duty of making investigation of "violations" of the provisions of the subversive activities act (Laws 1957, c. 178, s. 2, *supra*) a function which the same act likewise specifically entrusted to grand juries. Laws 1957, c. 178, s. 1. See RSA 588:2, 8-a (supp). I cannot avoid the conclusion that this change has substantially altered the whole character of the investigation in a way which renders the present investigation vulnerable under provisions of the Constitutions of New Hampshire and of the United States, more especially since the 1955 Report on Subversive Activities by the Attorney General to the General Court (*pp.* 9, 61, 204) makes it plain that he regards this defendant as a probable violator of the law. In view of the interpretation placed upon the 1957 act by the majority of the court, an exposition of my views with respect to the constitutional issues would be superfluous.

## Appendix E

No. 237, Misc. HUGO DEGREGORY, Appellant, v. ATTORNEY GENERAL OF NEW HAMPSHIRE.

368 US 19, 7 L ed 2d 86, 82 S Ct. 137.

Appeal from the Supreme Court of New Hampshire.

October 23, 1961. Per Curiam: The judgment is affirmed.

The Chief Justice, Mr. Justice Black, Mr. Justice Douglas and Mr. Justice Brennan dissent.

Same case below, 103 NH 214, 169 A2d 1.

Howard S. Whitside for appellant.

Gardner C. Turner, Attorney General of New Hampshire, pro se.

## Appendix F

## OPINION OF SUPREME COURT OF NEW HAMPSHIRE.

Merrimack,  
No. 5298.

WILLIAM MAYNARD, ATTORNEY GENERAL

v.

HUGO DEGREGORY

Argued January 5, 1965.

Decided April 30, 1965.

Petition under RSA 491:19, 20 to compel the defendant to answer certain questions asked him in a legislative investigation of subversive activities by the Attorney General pursuant to the provisions of RSA 588:8-a (supp).

When directed by the Trial Court (*Loughlin, J.*) to answer the propounded questions, defendant refused. He informed the Court he was not invoking his privilege against self incrimination. The Court adjudged him in contempt and ordered him committed to jail for a period of one year or until he purged himself of contempt. However, he was released on his own recognizance pending this appeal.

*William Maynard*, Attorney General, *R. Peter Shapiro*, Assistant Attorney General, and *Joseph F. Gall*, Special Assistant to the Attorney General (*Messrs. Shapiro and Gall* orally) for the Attorney General.

*Lawrence J. Walsh* and *Howard S. Whiteside* (of Massachusetts) (*Mr. Whiteside* orally) for the defendant.

LAMPRON, J. The first issue raised by the defendant is whether under the circumstances of this case the Attorney



General has power under RSA 588:8-a (supp) to question him and whether the Superior Court has power to commit him for his refusal to answer the questions asked.

RSA 588:8-c (supp) reads in part as follows: "At any time when the Attorney General has information which he deems reasonable or reliable relating to violations of the provisions of this chapter he shall make full and complete investigation thereof and shall report to the General Court the results of this investigation together with his recommendations, if any, for legislation."

We held in *Wyman v. DeGregory*, 103 N.H. 214, 216, 217, that this "statute does not require that there must be a violation of law before the legislative investigation can be set in motion. It only requires that there be reasonable and reliable information 'relating' to violations of the provisions of RSA Ch. 588" relating to subversive activities. This judgment was affirmed by the United States Supreme Court. *De Gregory v. Attorney General of New Hampshire*, 368 U.S. 19. That Court, as recently as March, 1963, reaffirmed the broad inherent power of a Legislature to conduct investigations "concerning the administration of existing laws as well as proposed or possibly needed statutes." *Gibson v. Florida Legislative Investigation Com.*, 372 U.S. 539, 545. See Annot. 3 L. Ed. 2d 1647, 1650.

The defendant argues, however, that the Attorney General did not comply with RSA 588:8-a (supp) in that he failed to show (1) that he "has information which he deems reasonable or reliable relating to violations of the provisions of" RSA ch. 588, and (2) that he has reasonable cause to believe that the defendant has evidence pertinent to the subject under investigation.

It has long been recognized that the tenets of the Communist Party include the overthrow of government by force and violence. *Nelson v. Wyman*, 99 N.H. 33, 50; *Barenblatt*

v. *United States*, 360 U.S. 109, 128. That the State of New Hampshire has an interest in the preservation of its government against the menace of Communist subversion is firmly established. *Nelson v. Wyman*, *supra*; *Gibson v. Florida Legislative Investigation Com.*, 372 U.S. 539, 547. Furthermore our Legislature has manifested a continuing concern to be kept informed by its investigating committee, the Attorney General, as to the need of "further legislation in the field of subversive activities." *Wyman v. De Gregory*, 103 N.H. 214, 217; RSA 588:8-a (supp); Laws 1961, 224:1 (p. 311) and 225:1 (p. 402); Laws 1963, 198:1 (p. 201) and 199:1 (p. 298).

In the present proceeding instituted in 1963 the Attorney General introduced in evidence a report to the Legislature, made by a prior Attorney General, showing the existence of a Communist Party and Communist influence in New Hampshire and the probable continuance of such activities in our state. Report of the Attorney General to New Hampshire General Court (January 5, 1955). In prior proceedings beginning in February 1960, the Attorney General attempted to obtain information from the defendant, which he is still seeking in the present proceedings. We hold that given the nature of the Communist movement and its mode of operation the above report could constitute information which the Attorney General could deem reasonable or reliable relating to violations of RSA ch. 588 and the proper basis for his present investigation of subversive activities on behalf of the Legislature. *Wyman v. De Gregory*, 103 N.H. 214, 217; *De Gregory v. Attorney General of New Hampshire*, 368 U.S. 19; *Gibson v. Florida Legislative Investigation Com.*, 372 U.S. 539, 547.

It was also stated in the above report that the then Attorney General had reliable information concerning defendant's participation in the Communist Party as an officer, a presiding officer at conferences in New Hampshire,

and in numerous other party activities. (pp. 204-206). When questioned by the Attorney General on November 22, 1963, and also in the Superior Court in the hearing which is the basis of this appeal, the defendant made the following statement: "I am not now a member of the Communist Party and have not been at any time since the authority you have cited, RSA 588:8-a; that I have no knowledge of any Communist activities in New Hampshire during this period or of any violations of RSA 588 during this period of six and one-half years." Even if taken at its face value, this statement does not render otherwise proper and pertinent information regarding his prior contacts and involvements with the Communist Party and its members in this State beyond the legitimate interest and jurisdiction of the Attorney General acting as the investigating committee of the Legislature. *Nelson v. Wyman*, 99 N.H. 33, 39; *Uphaus v. Wyman*, 360 U.S. 72, 78.

We hold, as we did in *Wyman v. De Gregory*, 103 N.H. 214, 217, that the Attorney General had reasonable and reliable information relating to violations of RSA ch. 588 which provided a valid and relevant basis for the investigation of the defendant. We hold further that the Superior Court could properly hold the defendant in contempt under RSA 491:19, 20 for his refusal to answer whether he was ever a member, a paid member, or an officer of the Communist Party; if he ever had access to or control of membership or financial records of the Party in New Hampshire or attended Party meetings; the extent of control of the Party activities in this state exerted by a Party unit in Boston of which he is alleged to have been an officer; if he attended Party meetings in New Hampshire where advocacy of the overthrow of the Government took place or persons conspired to so do; also questions as to his knowledge about the books, records or files of the Party in this state and about his contributions to its support. *Uphaus v. Wy-*

*man*, 360 U.S. 72; *Barenblatt v. United States*, 360 U.S. 109; *Wilkinson v. United States*, 365 U.S. 399; *Braden v. United States*, 365 U.S. 431.

Defendant's last contention is that if RSA 588:8-a (supp) is held to empower the Attorney General in the circumstances of this case, to require defendant to answer questions, this statute is in contravention of the Fourteenth Amendment. This is for the reason, in the words of his brief, "that the danger to the State, which must be present to warrant action under a statute like c. 588, s. 8A has not been shown to exist at any time during plaintiff's current attempts to question defendant or in fact for years prior thereto."

As we have stated previously in this opinion the investigation of Communist Party activities in this state is within the power of our Legislature and the authority granted to its investigating committee, the Attorney General. Because of the nature of the Communist Party it is a proper and permissible subject of constant scrutiny by the Legislature. *Gibson v. Florida Legislative Investigation Com.*, 372 U.S. 539, 547. A defendant's own past or present membership in the Party is within the purview of such an investigation. *Id.* The nexus between the defendant and subversive activities disclosed by the report offered in evidence by the Attorney General and properly admitted by the Court, furnished adequate justification for his present interrogation of the defendant. The decisions in No. 44 *American Committee for Protection of Foreign Born v Subversive Activities Control Board* [380 U.S. 503], 33 L. W. 4336, and No. 65 *Veterans of Abraham Lincoln Brigade v. Subversive Activities Control Board* [380 U.S. 513], 33 L. W. 4339 (decided April 26, 1965) are not apposite to the situation existing in this case. This exercise by the State of its power adequately to inform itself in order to act and protect its legitimate and vital interests has not been "pressed, in this instance, to a

point where it has come into fatal collision with the overriding constitutionally protected rights" of the defendant. *Uphaus v. Wyman*, 360 U.S. 72, 81.

*Exceptions overruled*

DUNCAN, J., concurred in the result; the others concurred.

DUNCAN, J., *concurring*: The 1957 statute, under which this proceeding was instituted in 1963, directs the Attorney General to make an investigation of "violations" of the "Subversive Activities Act of 1951." or of "information . . . relating to" such violations. RSA 588:8-a (supp). Section 8-a and my views concerning it have not changed since it was under consideration four years ago in a prior proceeding against this defendant. See *Wyman v. DeGregory*, 103 N.H. 214, 218-219. The foundation for the most recent order that the defendant answer questions propounded by the Attorney General is once again the report made by Attorney General Wyman to the Legislature in 1955. However, I am bound to accept as decided law the interpretation placed upon § 8-a, *supra*, by a majority of this court in *Wyman v. DeGregory*; *supra*, since affirmed by *DeGregory v. Attorney General of New Hampshire*, 368 U.S. 19, and therefore concur in the order entered today.

## Appendix G

COMMUNIST ACTIVITIES  
IN NEW HAMPSHIRE

## STATISTICS

Of those whose testimony was taken, sixteen refused to state whether or not they were or ever had been Communist Party members, claiming their constitutional privilege against self-incrimination. Of that sixteen, thirteen were identified as Communist Party members by other witnesses. In this particular investigation, we know that *at least* eighty-one per cent of those invoking the privilege against self-incrimination actually had been Communist Party members at some time.

This investigation has identified one hundred thirty-one New Hampshire residents as members of the Communist Party at one time or another. This number includes a handful of persons who participated in Communist Party activities to such an extent that although their Communist Party membership itself could not be proven, their participation was indistinguishable from that of persons whose membership could be proven. This number covers a period of time from 1928 to 1954, and it is recognized that there are many who we have not identified. Time limitations, not the exhaustion of logical leads, terminated the investigation.

The investigation disclosed that the turnover of membership in the Communist Party of New Hampshire was relatively high. The alleged leader of the Communist Party in New Hampshire, Mrs. Elba Chase Nelson, is reported to have stated in the late 1930's that there were never more than fifty Communist Party members at any one time in this state. For the press in 1947 she stated that there were a few over one hundred members in the state.

It is an accepted fact that the Party invariably overestimates its strength when speaking for publication but it is also recognized that the period 1944 through 1947 was the peak of Communist Party membership in this country. The Communist were able to muster between two hundred and three hundred votes in the various elections in which their candidates were on the ballot in New Hampshire. The figures on Communist Party membership in New Hampshire as released by Hon. J. Edgar Hoover, Director of the Federal Bureau of Investigation, prior to the passage of the Subversive Activities Act of 1951, placed the Party membership at approximately fifty in New Hampshire. This investigation has established identities of about forty-five who were Communist Party members at approximately that time, although in many cases the exact date of departure from New Hampshire or of separation from the Communist Party is in doubt. Of those, eight have cooperated, eighteen are now beyond the jurisdiction of New Hampshire, fifteen have refused to answer as to possible present membership, and the status of a handful is in doubt due to expiration of the investigation or as to dates of their departure from New Hampshire.

Many of the above number have died and others have left the state, and a considerable number have left the Communist Party. A few former Communist Party members have returned to their native homes in Finland and the Soviet Union.

Sworn testimony was taken from one hundred thirty witnesses. Some of these appeared by invitation, most were subpoenaed. Many other persons were interviewed but not placed under oath. Testimony was taken in many other states. Information was received from individuals and cooperating state and national agencies, coast to coast and border to border. Representatives of this office went outside the state several times in the course of the in-



quiry, seeking data pertinent to the investigation. Former Communists who held offices of both national and international scope assisted in amassing a considerable volume of information.

Three residents of the state denied ever being Communist Party members but refused to testify as to their knowledge of Communist Party activities of others and in so doing asserted their privilege against self-incrimination. These were: Mrs. Irma C. Otto, Center Sandwich, and Mrs. Beatrice Dobrowolski and Felix Dobrowolski of Nashua.

Several additional witnesses claimed their constitutional privilege in refusing to answer questions relative to their possible Progressive Party affiliations. Thirty-two former members of the Communist Party in New Hampshire cooperated with the investigation, providing valuable assistance to vastly varying degrees. Some of these now reside in other states.

Three former confidential informants of the Federal Bureau of Investigation concerning subversive activities in New England assisted us in our work. Several former members of the Young Communist League, and individuals having temporary close association with the Communist Party although never having been Communist Party members, also helped round out the picture.

## Appendix H

ORGANIZATIONAL STRUCTURE  
OF THE COMMUNIST PARTY IN NEW HAMPSHIRE

Geographically, the Communist Party U.S.A., is divided into subdivisions known as districts. There are thirty of these districts in the country. Communist Party District 1 includes the states of Maine, New Hampshire, Vermont, Massachusetts and Rhode Island. District headquarters is 2 Park Square, Boston, Massachusetts, but information has been received that although the district headquarters was once a beehive of activity, since the passage of the Massachusetts law regarding subversive activities in 1951, little or no activity takes place at headquarters. It is reported that the comrades now seldom go near the office, which remains vacant.

Within the districts there are further subdivisions of the Communist Party. The Communist Party of New Hampshire has frequently been referred to as the New Hampshire section. Within New Hampshire there have been various units of the Communist Party, and through the years they have been known variously as branches, units, cells and clubs. Due to the dispersed nature of the Communist Party in New Hampshire, the Party has not been organized into the more effective "shop units," composed of Communist Party members who work in one factory or industry. Rather, it has been organized entirely on the "street unit" plan, i.e., by geographical units.

This investigation has established that Communist Party units have existed in many towns in the state at various times, the more prominent being Nashua, Concord, Claremont, Newport, Washington, and Manchester. Most Communist Party members in New Hampshire have been assigned to one of the various units but some have been members at large, being assigned to no particular unit and

paying their dues to the state Secretary of the Communist Party.

Testimony of former Communists all over the country has established that in the 1949-1951 period the Communist Party in this country dispersed its membership, did away with large units, and established a pattern of meeting in small groups of from three to five members, so that no one Communist Party member could inform to the government on a large number of other Communist Party members.

In some instances the units in New Hampshire of the Communist Party have been sufficiently well organized to have unit officers, but in other cases all necessary business appears to have been transacted through the state officers of the Party.

The state officers in New Hampshire have reportedly consisted primarily of a state Chairman and state Secretary, with one person holding both positions a good share of the time.

The district officers of the Communist Party have jurisdiction over the New Hampshire Party and through the years have done much of the guiding of the efforts of the local Communists, according to the testimony of witnesses.

## Appendix I

BRIEF HISTORY OF COMMUNIST PARTY  
IN NEW HAMPSHIRE

Although the Communist Party was founded in the United States in 1919, there appears to have been no formal organization in New Hampshire until 1928 and at that time the Party operated under the name "Workers Party," which presumably was the "Workers (Communist) Party of America," which was the title which the Communists were using in this country at that time.

In May 1944 the Communist Party nationally was "dissolved" and the Communist Political Association, replaced it. This maneuver was Earl Browder's method of emulating Joseph Stalin, who ostensibly dissolved the Communist International in May 1943. The Communist Political Association nationally, under Browder, was a broad organization without the strict discipline of the Communist Party and the class struggle doctrine was soft-pedalled. For a time it looked as though the comrades thought they could "co-exist" with the democracies and republics.

The Party in New Hampshire followed suit. In July 1944 the Communist Party of New Hampshire was dissolved and the New Hampshire Chapter of the Communist Political Association was instituted at a state convention reportedly held in Windsor, New Hampshire.

In April 1945 Jacques Duclos, the French Communist leader who had just returned from the Soviet Union, wrote his now famous article entitled, "On the Dissolution of the Communist Party of the United States," for a French publication. This article was understood by Communists everywhere to have behind it the authority of the Kremlin. This article excoriated Browder for his deviation from the true Marxist-Leninist position and rocked the American Communists.

Within a brief period of time, with much wailing and Communist self-criticism, American Communist Political Association officials were confessing their error and hailing Duclos' call for a return to the principles of Marxism-Leninism, which in words of simplicity meant the return to the Communist principles of class warfare and the world-wide struggle for power. Browder was ostensibly expelled from the Communist Party in 1946.

In New England the cry was taken up and on July 21, 1945, in the Charter Room, New England Mutual Life Insurance Building, Berkeley Street, Boston, Massachusetts, a convention was held at which it was "voted" to reconstitute the Communist Party U.S.A., according to two former confidential informants of the Federal Bureau of Investigation who attended. The basic plan in New England, as elsewhere, was to return to the revolutionary doctrine of Marxism-Leninism.

The New Hampshire section of the Communist Party was represented at this convention by Mrs. Elba Chase Nelson, according to Herbert A. Philbrick and William H. Teto, who attended the convention as delegates of the Communist Party and confidential informants of the F.B.I. Mrs. Nelson reportedly spoke from the platform at this convention with the other New England Communist Party leaders.

It was not surprising to those who have kept tabs on the Communist Party throughout the years when the Communist Party of New Hampshire dittoed the national leaders of the Communist Party in March 1949, proclaiming to the world their support of the Soviet Union in the event of any war between the United States and the Soviets. The release made by the Communist Party of New Hampshire stated that in the event of an "unjust, aggressive and imperialistic war," brought on by "Wall Street," the Communist Party of New Hampshire would cooperate

with all democratic forces to defeat the predatory war aims of American imperialism. As any student of Communism knows, the Communist Party considers that anyone who dares to oppose Soviet aggression is engaged in an unjust, imperialistic, aggressive war. In this instance the Communist Party of New Hampshire was not only echoing the statement of the Communist Party national leaders but also those of leaders of the Communist Parties around the world who at that time were publicly swearing their allegiance to the Soviet Union and internationally displaying their perfidy.

## Appendix J

DISCERNIBLE HIGHLIGHTS OF THE COMMUNIST  
PARTY IN NEW HAMPSHIRE

The Communist Party entered candidates on the ballot in New Hampshire in most of the general elections between 1928 and 1946.

According to sworn testimony, the Communist Party of New Hampshire was aggressive in organizing support for the marble strike in Vermont in the mid-1930's. This activity apparently occupied the attention of the Communist Party for an extended period of time. The Communist Party rallied considerable support from non-Communist elements and according to one of the Communist Party officials who participated in the affair encouraged the workers to hold out long after the strike had proven hopeless and was only heaping additional hardships upon the strikers and their families.

There should be no confusion in the minds of the General Court concerning the marble strike, Inasmuch as the activity took place in Vermont this investigation did not concern itself with the factors out of which the strike grew but only with the Communist influence in the strike as it affected New Hampshire. In all probability, although this was not a subject of inquiry, the origin of the marble strike did not involve Communist influence. However, as in the case of many large strikes in the 1930's the Communists attempted to take over after the strike was in progress and turn it to their own ends. From the testimony of several Communists in New Hampshire, this would seem to have been the situation with regard to the marble strike.

American Communists have been instructed by such recognized Communist theoreticians as M. J. Olgin and



by international Communist authorities in the Lenin School in Moscow that if they are ever to seize the reins of state they must turn periods of civil unrest to their ends.

Communist leaders are instructed to turn periods of unrest into periods of chaos with the hope that when civil authority breaks down, the disciplined and dedicated Communist Party can assert itself in its "historic mission" and appropriate the reins of government.

To further these revolutionary aims, the Communist Party does not hesitate to remove its mask of pretended concern for the unfortunate and expose its true visage of cynicism and hypocrisy to "organize" or "train" the destitute so that they will be ready for the ultimate showdown. The Communist Party has shown itself in times of economic stress willing to subordinate the needs of legitimate strikers to the objectives of the revolutionary Party encouraging the strikers to demand positions impossible of attainment, for the purpose of precipitating civil crisis.

After the Vermont strike was hopelessly lost, according to the above-mentioned Communist Party official who participated, Fred Chase and Elba Chase Nelson, and other policy makers in the New Hampshire Party, actively supported its continuation. This was standard Communist procedure and makes obvious the real objectives of the New Hampshire Communists.

The Communists in New Hampshire performed some agitational work among the unemployed in the 1930's. Communists in this state were instrumental in organizing the New Hampshire phase of the Hunger March to Washington, D. C. in 1932. The Communists were active in some degree in the Workers Alliance in the Manchester area.

According to both Communists and non-Communists who participated in the affairs of the Farmer-Labor Party in this state in 1936, there was a strong Communist faction

in the Farmer-Labor Party at that time. It is noted that although the Communist Party and the Farmer-Labor Party both ran candidates for public office in 1936, there was no contest between these two parties for any office, since they ran candidates for varied and non-competitive offices.

After World War II there was again Communist agitation among the unemployed and an abortive attempt was made to set up an Unemployed Council in Nashua.

The New Hampshire Communists had no trouble swallowing imperialistic Soviet Russia's armed invasion of tiny Finland as shown by Mrs. Elba Chase Nelson's then defense of this act of imperialistic expansion.

Nor did the New Hampshire Communist Party strangle on the monumental dose of cynicism and opportunism administered by Comrade Stalin's alliance with Fascist Adolph Hitler. After years of bitter denunciation of Fascism and Naziism, in August 1939, after Hitler had begun his conquests that were to initiate a 1,000 year dynasty, Stalin secured Hitler's signature on a non-aggression pact between the two dictatorships, thus freeing Hitler of his biggest deterrent to aggression and allowing his military juggernaut to concentrate on the free countries of Europe.

Although the Communist Party of New Hampshire survived the very considerable blow of the signing of the Stalin-Hitler pact, it did not come through unscathed. Some of its more idealistic members became disillusioned with the Party and began their ideological break which before long led to an organizational break with the Communist Party.

From 1947 on, seemingly the number one project of the Communists in New Hampshire was the Third Party movement, the Wallace-for-President Committee. Progress-

sive Citizens of America, and the Progressive Party. This investigation has revealed more Communist effort along these lines than along any other lines since 1947.

In 1949 and 1951 the Communist Party of New Hampshire bitterly opposed legislation which was proposed to outlaw activity aimed at overthrowing the government by force and violence and to prohibit the teaching of this type of doctrine in New Hampshire schools.

Some of the organizations which have been heavily infiltrated by Communists in New Hampshire, according to the testimony of former Communists, but which no longer have units operating in this state, include the International Labor Defense, which had an active unit in Concord and support elsewhere, the Finnish Workers Federation in the Newport area, The American League against War and Fascism, and the American League for Peace and Democracy, which had units at Hanover and Manchester.

Communist influence in youth activities is dealt with in the section of this report concerning Dartmouth College and the University of New Hampshire, but there were other youth activities as well. A unit of the Young Communist League existed in New Ipswich in the 1930's, and if a unit did not exist in Manchester, at least there were a number of Young Communist League members whose residence was in Manchester and environs. There were other members of the League in various towns of the state in the late 1930's and the early 1940's.

Evidence has established that former members of the Communist Party of New Hampshire have attended Communist Party District 1 training schools in Boston and the Massachusetts Commission's Report of 1938 reported that Hugo DeGregory, who is now residing in Hudson, New Hampshire, and refused in July 1954 to say whether

or not he was then a Communist Party member, had attended the Communist Party National Training School.

The National Training School has reportedly been the key training ground for revolution and tactics for the Communist Party U.S.A. for years.

Testimony was received that the Communist Party in New Hampshire at various times through the years issued Communist Party membership books (sometimes referred to as cards) and at other times did not issue membership books for reasons of security. It appears that at about the time of the initial arrest of the national leaders of the Communist Party in 1949, the issuance of Communist Party membership books was discontinued, both in New Hampshire and in the United States generally. Communist Party members at the University of New Hampshire reportedly ceased carrying membership books for security reasons prior to that time.

Testimony has revealed that New Hampshire has been represented in both district and national conventions of the Communist Party, which are the ultimate authority in the Communist Party structure in this country, and both district and national officials of the Party have frequented this state on Party business.

Indicative of the type of influence from higher echelons and the instruction and discipline under which the New Hampshire Communists have operated, is the character of the Communist Party District leaders who have actively participated in the New Hampshire program.

Testimony has revealed that in the mid-1930's, Philip Frankfeld, then reportedly Communist Party District I Organizer, and his number one subordinate, George Blake Charney, alias George Blake, both frequented the state and provided guidance for the New Hampshire Commu-

nist Party. Both these men have been convicted in Federal Court of conspiring to advocate and teach the overthrowing of the United States government by force and violence.

In the late 1930's, Daniel Boone Schirmer was reportedly New England Organizer of the Young Communist League and as such was frequently in contact with the New Hampshire Young Communist League state leaders, dealing with them severely if the New Hampshire Young Communist League strayed. Schirmer later became Communist Party legislative agent for the State of Massachusetts, and in the spring of 1954 the Boston press reported he had been indicted by the Suffolk County, Massachusetts Grand Jury on a conspiracy charge but had disappeared and could not be located by Massachusetts authorities. He was also in New Hampshire as a district official of the Communist Party in the 1947-1948 period, according to sworn testimony, setting the line for the New Hampshire Party.

In the early 1930's Anne Burlak, now Mrs. Anne Burlak Timpson, attempted to perform organizational work for both the Communist Party and a textile union in New Hampshire, according to testimony of witnesses. She was subsequently reported to have attended Communist Party meetings in New Hampshire. Mrs. Timpson has held innumerable Communist Party positions, according to the testimony of former Communists and legislative records, including the following: Chairman, Communist Party District 1; Secretary, Communist Party District 1; Member of the National Committee of the Communist Party U.S.A. The Boston press reported in the spring of 1954 that Mrs. Timpson was arrested on a Suffolk County, Massachusetts charge of conspiracy. At this writing her case has not come to trial.

Otis Archer Hood, publicly-admitted Massachusetts and district official of the Communist Party, and obviously a front for the Party to protect its underground apparatus, has also relayed Communist policy to the New Hampshire comrades since World War II, according to sworn testimony. The Boston press reported that Hood has been indicted and arrested by both the Massachusetts State and the Suffolk County, Massachusetts authorities on a conspiracy charge, but his case has not come to trial at this writing.

In addition, testimony has established that many other district officials of the Communist Party have been in New Hampshire guiding the activities of the New Hampshire section of the Communist Party.

Communist Party officials on the national level have also participated in the affairs of the Communist Party in this state. In the 1948-1949 period, Elizabeth Gurley Flynn, convicted member of the Communist Party National Committee, was in this state and addressed members of the Communist Party in Manchester and at a meeting at the residence of Abraham Welanko in North Weare which was a meeting of a more open nature and included non-Communists.

Also indicative of the significance of the Communist Party in this state is the material used by the Communists locally as texts. Listed below are some of the texts studied, and from which instructions have been given the Communist Party in this state. Throughout this literature is implicit the strict loyalty to the U.S.S.R., the "fatherland of socialism"; the class war; the ultimate triumph of Communism on a world-wide scale; the necessity for the violent overthrow of all non-Communist governments and social orders including that of the United States; and atheism. Not only has sworn testimony established that

these documents were used in New Hampshire but copies have been furnished to this office by former Communist Party members in many cases. These texts include:

- |                                                           |                                                                       |
|-----------------------------------------------------------|-----------------------------------------------------------------------|
| The Communist Manifesto                                   | - by Karl Marx and Friedrich Engels                                   |
| History of the Communist Party, Soviet Union (Bolsheviks) | - by the Central Committee of the Communist Party of the Soviet Union |
| The Communist Party: a Manual on Organization             | - by J. Peters                                                        |
| Why Communism?                                            | - by M. J. Olgin                                                      |
| State and Revolution                                      | - by V. I. Lenin                                                      |
| Foundations of Leninism                                   | - by Joseph Stalin                                                    |
| Religion                                                  | - by V. I. Lenin                                                      |
| Imperialism; the Highest Stage of Capitalism              | - by V. I. Lenin                                                      |
| Left-wing Communism: an Infantile Disorder                | - by V. I. Lenin                                                      |
| Toward Soviet America                                     | - by William Z. Foster                                                |
| Problems of Leninism                                      | - by Joseph Stalin                                                    |



## Appendix K

## HUGO DeGREGORY

*Background*

Hugo DeGregory was born in San Francisco, California, in 1914, and completed high school in New York City. In the 1930's, he resided in Springfield, Massachusetts. He served in the U. S. Army from 1941-1945, receiving an honorable discharge. After World War II he lived in Boston and Worcester, Massachusetts, coming to New Hampshire in 1950. Since then he has lived in Nashua periodically, and currently resides on Moody Street, Hudson, New Hampshire. DeGregory is married to the former Louise Dobrowolski.

*Results of Investigation**Reported Communist Party  
Affiliation*

The report of the Massachusetts Commission which investigated subversive activities in that state in 1937 listed DeGregory as a member of the Massachusetts State Committee of the Communist Party in 1937. He was then residing in Springfield.

The report also had the following to say about DeGregory: "Organizer for the Communist Party, particularly the Young Communist League. He attended the Party's national training school . . ." Records of the House Committee on Un-American Activities revealed that DeGregory was Communist Party candidate for Lieutenant Governor of Massachusetts in 1940. According to the "Daily Worker" of June 22, 1944, page 7, Hugo DeGregory was a member of the Communist Political Association.

On Communist Party letterhead stationery of date December 5, 1945, Hugo DeGregory, Secretary-Treasurer of the Communist Party, District No. 1, Boston, Massachusetts, was authorized to sign checks on behalf of the Communist Party.

On letterhead stationery of the Communist Party of Massachusetts dated January 4, 1946, Hugo DeGregory was authorized to open a savings account for the Communist Party of Massachusetts. The letter was signed by DeGregory as Secretary of the Communist Party of Massachusetts.

In October 1946, Hugo DeGregory was listed as Secretary-Treasurer of the Communist Party in New England, with headquarters in Boston, Massachusetts, on stationery of the Communist Party of New England.

On October 7, 1946, DeGregory was replaced as Secretary-Treasurer of the Communist Party of Massachusetts.

A former confidential informant of the Federal Bureau of Investigation provided information that he had met DeGregory at Communist Party headquarters in Boston at various times during the 1946-1949 period.

This office has received information from a reliable source that in 1948 Hugo DeGregory was a paid employee of the Communist Party, which information he refused to affirm or deny when questioned in this state's probe.

A witness who was closely associated with the Communist Party in Nashua testified that he had information from a member of the Communist Party that Hugo DeGregory was a paid employee of the Communist Party, and that this member had seen DeGregory at Communist Party meetings in Nashua in the late 1940's.

A former member of the Communist Party in New Hampshire testified that he had known Hugo DeGregory

as an official of the Communist Party prior to 1946 and that DeGregory came to New Hampshire to preside over Communist Party meetings as an official as late as 1948, and that these appearances of DeGregory were sporadic.

William H. Teto, another former confidential informant of the Federal Bureau of Investigation, testified that Hugo DeGregory was known to him as a district official of the Communist Party who had attended a meeting of the National Committee of the Communist Party about 1948, and that DeGregory made a so-called security check of the Communist Party membership in 1949. The same witness testified that Hugo DeGregory attended a Marxist school with him in Boston, Massachusetts, and that when the Communist Party went underground, DeGregory moved to New Hampshire. The same witness testified that DeGregory was a "paid functionary" of the Communist Party in the 1940's.

Another former member of the Communist Party in New Hampshire testified that Hugo DeGregory attended a State Convention of the Communist Party with him at the Dobrowolski residence in Nashua in the fall of 1950.

An admitted former member of the Communist Party in New Hampshire testified that Hugo DeGregory called on him at his home in New Hampshire in the company of Elba Chase Nelson on Communist Party business in the spring of 1953 and sold him some Communist literature, which may have included Stalin's last statement. The literature was not available for examination.

Information from a reliable source has been received which revealed that on August 5, 1954, DeGregory was contacted by Tony Passaretti of Lawrence, Massachusetts. Passaretti has been identified as a Communist Party member in the late 1940's by William H. Teto. The significance of this contact was not established.

*Testimony of  
Hugo DeGregory*

At the outset of his testimony on July 12, 1954, Hugo DeGregory read a prepared statement charging that the law on which this investigation was based was both unjust and unconstitutional, that the investigation was a witch-hunt, that it was a fraud; that there was a plot of a "McCarthy gang" in New Hampshire. Later he charged that the state "apparatus" being what it was, it was very difficult to get any action on fascist activities. He freely made accusation of fascist activity, but offered no information to back up his unfounded accusations, and would say absolutely nothing concerning his possible knowledge of Communist activities. This line is reiterated constantly in the Communist "Daily Worker." DeGregory resorted to the constitutional provision against self-incrimination in refusing to say if he was a Communist Party member.

MRS. LOUISE DeGREGORY

*Background*

Mrs. Louise DeGregory was born Louise Wanda Dobrowolski in Nashua, New Hampshire. Her parents are Kathryn and Konstanti Dobrowolski, and her present husband is Hugo DeGregory. She graduated from Nashua High School and now resides on Moody Street, Hudson, New Hampshire. Mrs. DeGregory is an accomplished accordion player. Testimony has identified Konstanti Dobrowolski and Kathryn Dobrowolski, and Hugo DeGregory, as members of the Communist Party in the past.

*Results of Investigation*

*Reported Communist Party Affiliation*

Louise Dobrowolski (DeGregory) was named by a witness, who although not a Communist Party member attend-

ed some Communist Party activities after World War II, as attending some Communist Party meetings in that period. Another witness, who was a former Communist Party member, testified that Mrs. DeGregory had been present at one or two Communist Party meetings which the witness had attended as a Communist Party member shortly after World War II. Another self-acknowledged former member of the Communist Party in New Hampshire testified that he had known a girl by the name of Dobrowolski who was "a musician" and who has attended Communist Party meetings in Nashua which he had attended.

#### *International Workers Order*

The name of Louise Dobrowolski is listed as a policy-holder in the International Workers Order as late as 1953, according to a reliable source.

#### *Testimony of Louise DeGregory*

Mrs. Louise DeGregory invoked the privilege against self-incrimination in declining to answer questions regarding her own membership, past or present, and the membership of others in the Communist Party, as well as the aims and activities of the Party, when questioned July 12, 1954.

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